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14 Attorneys for Plaintiffs People of the

15 State of California and People of the State

of California, ex rel Edwin F. Lowry, Director,

16 California Department of Toxic

17 Substances Control

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

19 **COUNTY OF KERN - METROPOLITAN DIVISION**

20 THE PEOPLE OF THE STATE OF CALIFORNIA AND) **KCSC No. 246599 NFT**

THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel)

21 Edwin F. Lowry, Director, California Department of Toxic) **File No. HM-4042**

22 Substances Control,)

23 Plaintiff,)

) **NOTICE OF ENTRY OF FINAL**

) **JUDGMENT AND PERMANENT**

24 vs.)

) **INJUNCTION**

25 RESOURCE RENEWAL TECHNOLOGY, INC.; CALVIN)

26 HENRY CHEEK, JR.; CALVIN CHEEK, III; JUSTIN)

27 ESPINOSA; JAMES W. CAPLES; and DOES 1 through 50,)

inclusive,)

) **Complaint Filed: March 13, 2002**

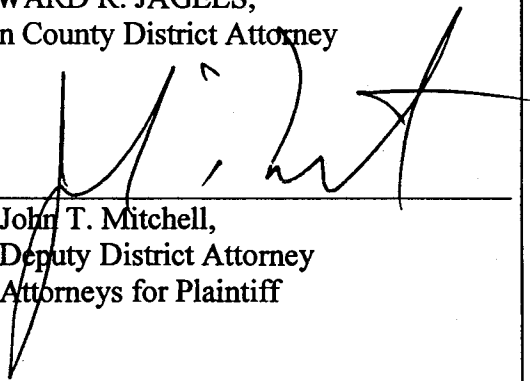
28 Defendants.)

) **TRIAL DATE: March 14, 2005**

1 NOTICE IS HEREBY GIVEN that on February 16, 2005, the Honorable Commissioner Louis P.
2 Etcheverry, Dept. 14, signed the stipulated Final Judgment and Permanent Injunction. A copy of the
3 Judgment filed on February 16, 2005, is attached hereto as **Exhibit A**. A fully executed copy of the
4 Stipulation for Entry of Final Judgment and Permanent Injunction is attached hereto as **Exhibit B**.

5 Dated: February 24, 2005

EDWARD R. JAGELS,
Kern County District Attorney

6
7
8 By 
9 John T. Mitchell,
10 Deputy District Attorney
11 Attorneys for Plaintiff
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14 of California and People of the State of
15 California, ex rel Edwin F. Lowry, Director,
16 California Department of Toxic Substances Control

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF KERN – METROPOLITAN DIVISION**

19 *****

20 THE PEOPLE OF THE STATE OF CALIFORNIA AND) **KCSC No. 246599 NFT**
21 THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel)
22 Edwin F. Lowry, Director, California Department of Toxic) **File No. HM-4042**
Substances Control,)
23 Plaintiff,) **FINAL JUDGMENT AND**
24 vs.) **PERMANENT INJUNCTION**
25 RESOURCE RENEWAL TECHNOLOGY, INC.; CALVIN)
26 HENRY CHEEK, JR.; CALVIN CHEEK, III; JUSTIN)
27 ESPINOSA; JAMES W. CAPLES; and DOES 1 through 50,)
inclusive,)
28 Defendants.)

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FILED
KERN COUNTY
FEB 16 2005
TERRY McNALLY, CLERK
BY [Signature] DEPUTY

1 THE PEOPLE OF THE STATE OF CALIFORNIA, through their attorney Edward R.
2 Jagels, District Attorney of the County of Kern, State of California, by Deputy District Attorney
3 John Mitchell, and the People of the State of California, ex rel. Edwin F. Lowry, Director,
4 California Department of Toxic Substances Control, and Bill Lockyer, Attorney General of the
5 State of California, by Deputy Attorney General Brett Morris, ("Plaintiffs"), and Calvin Henry
6 Cheek, Jr., Calvin Cheek, III; Justin Espinosa and James W. Caples, (hereafter to as
7 "Defendants") through their attorney William Slocumb, having stipulated to the entry of this
8 Final Judgment and Permanent Injunction without the taking of proof and without this judgment
9 constituting evidence or an admission of any party regarding any issue of law or fact alleged in
10 the complaint in this action, without the Defendants admitting any liability, all parties having
11 waived the right to appeal, and good cause appearing,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

13 1. This action is brought under California law and this Court has jurisdiction of the
14 subject matter and the parties.

15 2. The provisions of this Permanent Injunction are applicable to each of the
16 Defendants (hereinafter collectively referred to as "Enjoined Persons").

17 3. Pursuant to California Business and Professions Code section 17203, Enjoined
18 Persons, and each of them, are permanently enjoined and restrained from directly or indirectly
19 violating any of the following:

- 20 a. California Health and Safety Code section 25189(a);
21 b. California Health and Safety Code section 25189(d);
22 c. California Health and Safety Code section 42402.1; and
23 d. California Health and Safety Code section 42402.3.

24 4. Defendants and said persons, corporations and entities set forth in paragraph 2
25 above are hereby enjoined and restrained from:

- 26 a. Failing to properly label hazardous materials, in violation of Title 22
27 California Code of Regulations, Chapter 10, Division 4.5, Section
28 66262.34(f);

- b. Failing to comply with the provisions regarding hazardous materials and hazardous waste, as set forth in Title 8 California Code of Regulations, Division 1, Chapter 4, Subchapter 7, Group 16, Article 109, Section 5194(f); and
- c. Failing to properly store used oil filters in a closed container, in violation of Title 22 California Code of Regulations, Chapter 10, Division 4.5, Section 66265.173. violating any of the Rules and Regulations pertaining to storage or transportation of any hazardous materials of the San Joaquin Valley Unified Air Pollution Control District.

5. Defendant Calvin Henry Cheek, Jr. shall pay the sum of Sixty-Five Thousand Dollars (\$65,000.00). Forty Thousand Dollars (\$40,000.00) of that shall be assessed as penalties and Twenty-Five Thousand Dollars (\$25,000.00) shall be paid as reimbursement for costs incurred in the prosecution of this matter.

6. Defendant Calvin Cheek III shall pay the total sum of One Thousand Dollars Five Hundred Dollars (\$1,500.00). One Thousand Dollars (\$1,000.00) of that amount shall be assessed as penalties and Five Hundred Dollars (\$500.00) as costs.

7. Defendant Justin Espinoza shall pay the total sum of One Thousand Dollars Five Hundred Dollars (\$1,500.00). One Thousand Dollars (\$1,000.00) of that amount shall be assessed as penalties and Five Hundred Dollars (\$500.00) as costs..

8. Defendant Calvin Henry Cheek, Jr. shall pay aforesaid penalties and costs in the sum of One Thousand Dollars (\$1,000.00) per month beginning on April 1, 2005, and continuing thereafter until paid in full. Each payment shall be due on the first and late on the fifteenth of each month.

9. Defendant Calvin Cheek, III shall pay aforesaid penalties and costs in the sum of One Hundred Dollars (\$100.00) per month beginning on April 1, 2005, and continuing thereafter until paid in full. Each payment shall be due on the first and late on the fifteenth of each month.

10. Defendant Justin Espinoza shall pay aforesaid penalties and costs in the sum of One Hundred Dollars (\$100.00) per month beginning on April 1, 2005, and continuing

1 thereafter until paid in full. Each payment shall be due on the first and late on the fifteenth of
2 each month.

3 11. Payment shall be made payable to the Kern County District Attorney to the
4 attention of John T. Mitchell, Kern County District Attorney's Office, 1215 Truxtun Avenue,
5 Bakersfield, California 93301.

6 12. The payment of Sixty-Eight Thousand Dollars (\$68,000.00) shall be allocated as
7 follows:

- 8 a. Twenty-Four Thousand Dollars (\$24,000.00) shall be directed to the Kern
9 County Environmental Health Services Department's Trust Fund 22125,
10 Department 4113, Revenue Account 5730, for utilization in future investigative
11 enforcement actions. Two Thousand Dollars (\$2,000.00) of that amount shall
12 constitute reimbursement for costs incurred by the Kern County Environmental
13 Health Services Department in the investigation of this matter.
- 14 b. Twenty-Two Thousand Dollars (\$22,000.00) shall be directed to the California
15 Department of Toxic Substances Control. One Thousand Dollars (\$1,000.00) of
16 that amount shall constitute reimbursement for costs incurred by California
17 Department of Toxic Substances Control in the prosecution of this matter.
- 18 c. Twenty-Two Thousand Dollars (\$22,000.00) shall be directed to the Kern
19 County District Attorney's Office as reimbursement for costs incurred in the
20 prosecution of this matter.

21 13. This judgment and permanent injunction shall expire without further operation of
22 law, as to Defendants Calvin Cheek, III, James Caples, and Justin Espinoza, on December 31,
23 2009. The expiration of said permanent injunction shall not alter, reduce or eliminate any other
24 statutory, regulatory or legal obligations imposed on defendants by statute, permit, ordinance, or
25 other operation of law. This judgment and permanent injunction shall expire without further
26 operation of law, as to Defendant Calvin Henry Cheek Jr. on December 31, 2012, assuming that
27 he has made all of the requisite payments.

1 14. The failure of the Kern County Environmental Health Services Department, or
2 the Plaintiffs to seek enforcement of any provision of this Stipulation shall not be deemed a
3 waiver of any rights by the Kern County Environmental Health Services Department, the
4 Department of Toxic Substances Control or the Kern County District Attorney, or in any way
5 affect the validity of this Stipulation or the Judgment as to the Defendants.

6 15. The County of Kern shall not be liable for any injury or damage to persons or
7 property resulting from the acts or omissions by Defendants in carrying out activities pursuant to
8 this Stipulation, nor shall the County of Kern be held as a party to or guarantor of any contract
9 entered into by Defendants or its representatives or contractors in carrying out activities required
10 pursuant to this Stipulation.

11 16. Defendants shall pay their own filing fees.

12 17. Jurisdiction is retained for the purpose of enabling any party to the Final
13 Judgment to apply to the court at any time for such further orders and directions as may be
14 necessary and appropriate for the construction or carrying out of this Final Judgment, for the
15 modification of any of the provisions hereof, for the enforcement of compliance herewith, or for
16 the punishment of violations hereof.

17 18. The Clerk is ordered to enter this Final Judgment herewith.

18 19. This Final Judgment shall take effect immediately upon entry of this Stipulation
19 and Judgment by this Court.

20
21 DATED: 2-16-05

22
23 
24 JUDGE OF THE SUPERIOR COURT

1 **EDWARD R. JAGELS, District Attorney**
County of Kern
2 **JOHN T. MITCHELL (SBN 99967)**
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5 **BILL LOCKYER, Attorney General**
of the State of California
6 **THEODORA BERGER**
Senior Assistant Attorney General
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11 Oakland, CA 94612
12 Telephone: (510) 622-2176

13 **Attorneys for Plaintiffs People of the State**
14 **of California and People of the State of**
15 **California, ex rel Edwin F. Lowry, Director,**
16 **California Department of Toxic Substances Control**

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF KERN – METROPOLITAN DIVISION**

19 *****

20 THE PEOPLE OF THE STATE OF CALIFORNIA AND) KCSC No. 246599 NFT
21 THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel)
22 Edwin F. Lowry, Director, California Department of Toxic) File No. HM-4042
23 Substances Control,)
24 Plaintiff,) STIPULATION FOR ENTRY
25 vs.) OF FINAL JUDGMENT AND
26) PERMANENT INJUNCTION
27 RESOURCE RENEWAL TECHNOLOGY, INC.; CALVIN)
28 HENRY CHEEK, JR.; CALVIN CHEEK, III; JUSTIN)
29 ESPINOSA; JAMES W. CAPLES; and DOES 1 through 50,)
30 inclusive.)
31 Defendants.)

EXHIBIT B

1 THE PEOPLE OF THE STATE OF CALIFORNIA, through their attorney Edward R.
2 Jagels, District Attorney of the County of Kern, State of California, by Deputy District Attorney
3 John Mitchell, and the People of the State of California, ex rel. Edwin F. Lowry, Director,
4 California Department of Toxic Substances Control, and Bill Lockyer, Attorney General of the
5 State of California, by Deputy Attorney General Brett Morris, ("Plaintiffs"), Calvin Henry
6 Cheek, Jr., Calvin Cheek, III; Justin Espinosa and James W. Caples, (hereafter referred to as
7 "Defendants") through their attorney William Slocumb, stipulate as follows:

8 1. This action is brought under California law, specifically California Health and
9 Safety Code sections 25507(a), 25510, 25516, 42402(c), 42402.1, 42403; Title 22, CCR Chapter
10 10, Division 4.5, Section 66265.31; and California Business and Professions Code section
11 17200.

12 2. This Court has jurisdiction of the subject matter and the parties.

13 3. That the Final Judgment and Entry of Permanent Injunction, a copy of which is
14 attached hereto as **Exhibit A**, and incorporated herein, be entered forthwith and without the
15 presentation of any evidence and without trial or adjudication of any issue of law or fact herein.

16 4. By entering into this Stipulation, Defendants do not admit liability for the causes
17 of action set forth in the Complaint. Defendants agree to waive hearing on the allegations of the
18 Complaint and to be bound by the terms of the aforementioned Final Judgment and Entry of
19 Permanent Injunction.
20

21 5. The resolution of the disputed claim in this case shall not be deemed an
22 admission by the Defendants of the truth of any claim, allegation, or cause of action alleged in
23 this case.

24 6. The filing of this Stipulation and Final Judgment may be made by the ex parte
25 appearance of Plaintiffs, without further notice to Defendants.

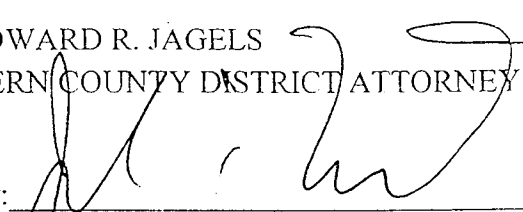
26 7. The parties executing this Stipulation hereby warrant that they are authorized to
27 execute this stipulation and bind the parties for whom they are signing to all the terms hereof.
28

1 8. As part of the settlement of this matter, Defendant Calvin Henry Cheek, Jr. has
2 agreed to remove the four or five storage bins that are currently stored at 5361 His Way.
3 Defendant Calvin Henry Cheek, Jr. agrees to provide the Kern County Environmental Health
4 Department with analytical samples of the contents of those bins and to properly dispose of the
5 bins and their contents no later than October 31, 2005. In the event that Calvin Henry Cheek, Jr.
6 fails to comply with the provisions of this paragraph plaintiffs may file a separate action for any
7 violations arising from the storage of those bins.

8 9. So long as Defendant Calvin Henry Cheek, Jr. remains current with his payments
9 pursuant to this judgment, Plaintiff's agree not to record an abstract of judgment. However, if
10 Defendant Calvin Henry Cheek, Jr. fails to make any payment by the 15th of any month, the
11 Plaintiffs may elect to record an abstract of judgment. Plaintiffs shall give 15 days written
12 notice to Defendant Calvin Henry Cheek, Jr. at 5601 Ashland Street, Bakersfield, California
13 93308, before recording an abstract of judgment. The failure to elect to record an abstract of
14 judgment in the event of missed payment shall not constitute a waiver of Plaintiffs' right to do
15 so in the future.

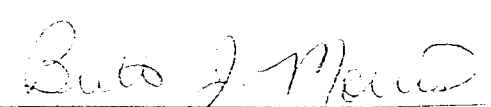
16
17 DATED: Feb. 14, 2005

EDWARD R. JAGELS
KERN COUNTY DISTRICT ATTORNEY

18
19 By: 
20 JOHN T. MITCHELL
21 Deputy District Attorney
22 Attorney for Plaintiff

23 DATED: February 10, 2005

BILL LOCKYER, Attorney General
of the State of California
THEODORA BERGER, Senior Assistant
Attorney General
KEN ALEX, Sup. Deputy Attorney General

24
25
26 By: 
27 BRETT J. MORRIS
28 Deputy Attorney General

1 DATED: 2-9-05, 2005

WILLIAM H. SLOCUMB, Attorney at Law

2 By: William H. Slocumb
3 WILLIAM H. SLOCUMB,
4 Attorney for Defendant

5
6 Dated: 2-9-05, 2005

7 Calvin H. Cheek, Jr.
8 CALVIN HENRY-CHEEK, JR

9 Dated: 2-9-05, 2005

10 Calvin H. Cheek III
11 CALVIN CHEEK, III

12 Dated: 2-9-05, 2005

13 Justin Espinosa
14 JUSTIN ESPINOSA

15 Dated: 2-9-05, 2005

16 James W. Caples
17 JAMES W. CAPLES
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